(26)

HIGH COURT OF CHHATTISGARH, BILASPUR

First Appeal No. 29/2005

APPELLANT PLAINTIFF	:	Raman lal Maheshwari, S/o Mishri lal Maheshwari, aged-45 years, Occupation-Nothing, R/o Ward No. 13, Nayapara, Bemetara, Police Station & Tahsil-Bemetara, District Durg (C.G.)
		Versus
RESPONDENTS DEFENDANTS	:	1) State of Chhattisgarh, Through: Collector, Durg, District-Durg (C.G.)
	:	2. Senior Superintendent of Police, Durg (C.G.)
	:	3. V.P. Singh, Sub-Inspector (Police), At the time of incident-Police Station-Bemetara, District-Durg (C.G.)
		Present address-P.S. Bhilai-Chhawani, District-Durg (C.G.)

Present:
Shri Sudhir Verma, learned counsel for the appellant.
Shri Akhil Agrawal, P.L. for the State/respondent No.1

ORAL ORDER
(Passed on 13th March,2007)

The following oral order of the Court was passed by **Dilip Raosaheb Deshmukh, J.**

Heard.

Being aggrieved by the judgment dated 05.01.2005 passed by the Additional District Judge, Bemetara, District-Durg in Civil Suit No.3-B/2004 whereby the suit for damages filed by the appellant-plaintiff was dismissed, the appellant-plaintiff has preferred this First Appeal.

2. Brief facts are that the appellant-plaintiff owns Srinath General Store at New Bus Stand, Bemetara. It is alleged that on 10.09.2001 he was dispossessed by his brothers from the said general store. On 11.09.2001, the appellant-plaintiff lodged complaint at the Police Station-Bemetara. Since the police did not file charge sheet, the appellant-plaintiff preferred a private complaint before the Additional Chief Judicial

Magistrate, Bemetara. The appellant-plaintiff alleged that the police did not investigate the matter and submitted a final report with mala fide intention. On these premises, a suit for awarding damages of Rs.60,000/- was filed by the appellant-plaintiff. Learned Additional District Judge, Bemetara recorded a finding that there was absolutely no material on record to show that the police either with mala fide intention or to harass the appellant-plaintiff submitted a final report on the first information report lodged by the appellant-plaintiff.

3. Learned counsel for the appellant submits that besides the oral assertion made by the appellant-plaintiff there is no other material on record to show that either the police acted in a mala fide manner or to harass the appellant-plaintiff.

4. Having heard rival contentions, I have perused the record of Civil Suit no.3-B/2004. The oral assertion of the appellant/plaintiff is wholly rebutted by the testimony of Sub Inspector-V.P. Singh who stated that in view of the dispute being of a private nature between brothers Dev Kishan and Ramanlal, he had submitted a final report. In this view of the matter, it cannot be said that the Police acted with mala fide intention in ~~filing~~ submitting a final report. In the absence of proof of mala fide intention on the part of the defendants to harass the appellant-plaintiff, the learned lower Court rightly dismissed the suit. The finding recorded by the learned lower Court is thus impeccable.

5. In the result, this appeal being devoid of merit is dismissed. No order as to costs.

Sd/-
Dilip Raosaheb Deshmukh
Judge